



IOWA ADMINISTRATIVE BULLETIN

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NUMBER 18
Pages 1205 to 1228

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PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike-through~~ indicates deleted material.

STEPHANIE A. HOFF, Administrative Code Editor

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2012

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 21 '11	Jan. 11 '12	Jan. 31 '12	Feb. 15 '12	Feb. 17 '12	Mar. 7 '12	Apr. 11 '12	July 9 '12
Jan. 6	Jan. 25	Feb. 14	Feb. 29	Mar. 2	Mar. 21	Apr. 25	July 23
Jan. 20	Feb. 8	Feb. 28	Mar. 14	Mar. 16	Apr. 4	May 9	Aug. 6
Feb. 3	Feb. 22	Mar. 13	Mar. 28	Mar. 30	Apr. 18	May 23	Aug. 20
Feb. 17	Mar. 7	Mar. 27	Apr. 11	Apr. 13	May 2	June 6	Sep. 3
Mar. 2	Mar. 21	Apr. 10	Apr. 25	Apr. 27	May 16	June 20	Sep. 17
Mar. 16	Apr. 4	Apr. 24	May 9	May 11	May 30	July 4	Oct. 1
Mar. 30	Apr. 18	May 8	May 23	***May 23***	June 13	July 18	Oct. 15
Apr. 13	May 2	May 22	June 6	June 8	June 27	Aug. 1	Oct. 29
Apr. 27	May 16	June 5	June 20	***June 20***	July 11	Aug. 15	Nov. 12
May 11	May 30	June 19	July 4	July 6	July 25	Aug. 29	Nov. 26
May 23	June 13	July 3	July 18	July 20	Aug. 8	Sep. 12	Dec. 10
June 8	June 27	July 17	Aug. 1	Aug. 3	Aug. 22	Sep. 26	Dec. 24
June 20	July 11	July 31	Aug. 15	Aug. 17	Sep. 5	Oct. 10	Jan. 7 '13
July 6	July 25	Aug. 14	Aug. 29	***Aug. 29***	Sep. 19	Oct. 24	Jan. 21 '13
July 20	Aug. 8	Aug. 28	Sep. 12	Sep. 14	Oct. 3	Nov. 7	Feb. 4 '13
Aug. 3	Aug. 22	Sep. 11	Sep. 26	Sep. 28	Oct. 17	Nov. 21	Feb. 18 '13
Aug. 17	Sep. 5	Sep. 25	Oct. 10	Oct. 12	Oct. 31	Dec. 5	Mar. 4 '13
Aug. 29	Sep. 19	Oct. 9	Oct. 24	***Oct. 24***	Nov. 14	Dec. 19	Mar. 18 '13
Sep. 14	Oct. 3	Oct. 23	Nov. 7	***Nov. 7***	Nov. 28	Jan. 2 '13	Apr. 1 '13
Sep. 28	Oct. 17	Nov. 6	Nov. 21	***Nov. 21***	Dec. 12	Jan. 16 '13	Apr. 15 '13
Oct. 12	Oct. 31	Nov. 20	Dec. 5	***Dec. 5***	Dec. 26	Jan. 30 '13	Apr. 29 '13
Oct. 24	Nov. 14	Dec. 4	Dec. 19	***Dec. 19***	Jan. 9 '13	Feb. 13 '13	May 13 '13
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Dec. 5	Dec. 26	Jan. 15 '13	Jan. 30 '13	Feb. 1 '13	Feb. 20 '13	Mar. 27 '13	June 24 '13
Dec. 19	Jan. 9 '13	Jan. 29 '13	Feb. 13 '13	Feb. 15 '13	Mar. 6 '13	Apr. 10 '13	July 8 '13

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
20	Friday, March 16, 2012	April 4, 2012
21	Friday, March 30, 2012	April 18, 2012
22	Friday, April 13, 2012	May 2, 2012

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

EDUCATION DEPARTMENT[281]

Pathways for academic career and employment program; gap tuition assistance program, ch 25 IAB 2/22/12 ARC 0020C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	March 13, 2012 10 to 11 a.m.
Funding for instructional programs for children residing in juvenile homes, ch 63 IAB 2/22/12 ARC 0019C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	March 13, 2012 9 to 10 a.m.
Early ACCESS integrated system of early intervention services, ch 120 IAB 2/22/12 ARC 0018C (ICN Network)	ICN Classroom Grimes State Office Bldg. Des Moines, Iowa	March 13, 2012 2 to 3:30 p.m.
	Area Education Agency 267 3712 Cedar Heights Dr. Cedar Falls, Iowa	March 13, 2012 2 to 3:30 p.m.
	Turner Room, Green Hills AEA 1405 N. Lincoln Creston, Iowa	March 13, 2012 2 to 3:30 p.m.
	Room 2, Keystone Area Education Agency 2310 Chaney Rd. Dubuque, Iowa	March 13, 2012 2 to 3:30 p.m.
	Great Prairie Area Education Agency 2814 N. Court St. Ottumwa, Iowa	March 13, 2012 2 to 3:30 p.m.
	Room 206, Northwest AEA 1520 Morningside Ave. Sioux City, Iowa	March 13, 2012 2 to 3:30 p.m.
	ICN Classroom Williamsburg Jr-Sr High School 810 W. Walnut Williamsburg, Iowa	March 13, 2012 2 to 3:30 p.m.
	ICN Classroom Grimes State Office Building Des Moines, Iowa	March 15, 2012 2 to 3:30 p.m.
	Area Education Agency 267 3712 Cedar Heights Dr. Cedar Falls, Iowa	March 15, 2012 2 to 3:30 p.m.
	Turner Room, Green Hills AEA 1405 N. Lincoln Creston, Iowa	March 15, 2012 2 to 3:30 p.m.
	Room 225, Wahlert High School 2005 Kane St. Dubuque, Iowa	March 15, 2012 2 to 3:30 p.m.
	Room 117, Kirkwood Community College 1816 Lower Muscatine Rd. Iowa City, Iowa	March 15, 2012 2 to 3:30 p.m.
	Room 157, Ottumwa High School 501 E. 2nd Ottumwa, Iowa	March 15, 2012 2 to 3:30 p.m.

EDUCATION DEPARTMENT[281] (cont'd)**(ICN Network)**

Room D202
Western Iowa Tech Community College
4647 Stone Ave.
Sioux City, Iowa

March 15, 2012
2 to 3:30 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Water quality certification,
61.2(2)“g”
IAB 2/8/12 **ARC 9998B**

Fifth Floor West Conference Room
Wallace State Office Bldg.
Des Moines, Iowa

March 13, 2012
1 p.m.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

Local emergency management,
7.2 to 7.7
IAB 2/22/12 **ARC 0023C**

Division Conference Room, Building W-4
Camp Dodge
7105 NW 70th Ave.
Johnston, Iowa

March 14, 2012
1 p.m.

LABOR SERVICES DIVISION[875]

Elevator board—update of ASME
codes; installation and remote
manipulation of conveyances;
technical changes, amendments
to chs 66, 68, 69, 71 to 73
IAB 2/22/12 **ARC 0011C**

Capitol View Room
1000 E. Grand Ave.
Des Moines, Iowa

March 14, 2012
9 a.m.
(If requested)

PROFESSIONAL LICENSURE DIVISION[645]

Chiropractic physicians—
continuing education, 44.3(2)“a”
IAB 2/22/12 **ARC 0010C**

Fifth Floor Board Conference Room
Lucas State Office Bldg.
Des Moines, Iowa

March 13, 2012
9 to 9:30 a.m.

PUBLIC SAFETY DEPARTMENT[661]

Identification cards for former
peace officers of the department,
ch 93
IAB 2/8/12 **ARC 9988B**

First Floor Conference Room
Public Safety Headquarters Bldg.
215 E. 7th St.
Des Moines, Iowa

April 3, 2012
9:30 a.m.

Electrical examining
board—reciprocal licensing,
failure to pay fees, 502.2(14),
502.4(6), 552.2(4)
IAB 3/7/12 **ARC 0038C**

First Floor Conference Room
Public Safety Headquarters Bldg.
215 E. 7th St.
Des Moines, Iowa

April 19, 2012
10 a.m.

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ARC 0038C

PUBLIC SAFETY DEPARTMENT[661]**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 103.6, the Electrical Examining Board hereby gives Notice of Intended Action to amend Chapter 502, “Electrician and Electrical Contractor Licensing Program—Licensing Requirements, Procedures, and Fees,” and Chapter 552, “Electrical Inspection Program—Permits and Inspections,” Iowa Administrative Code.

Iowa Code chapter 103 establishes the Electrical Examining Board and assigns it responsibility to establish and operate the statewide Electrician and Electrical Contractor Licensing Program and Electrical Inspection Program and to adopt administrative rules for these programs. The amendments proposed herein are intended to accomplish three things: (1) to clarify the requirements for an electrician to obtain an Iowa license without having to take an examination, based upon the electrician’s being licensed in another state which has entered into a reciprocity agreement with the Iowa Electrical Examining Board, (2) to clarify the circumstances under which issuance of a new or renewal license may be denied based upon the licensee’s failure to pay fees which are due, and (3) to spell out the consequences of failure to pay fees resulting from the modification of a permit for electrical installation work.

Any interested person may comment on these proposed amendments via E-mail to admrule@dps.state.ia.us, by fax to the Agency Rules Administrator at (515)725-6195, or by regular mail to Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. Comments should be submitted no later than 4:30 p.m. on April 18, 2012, or may be submitted at the public hearing.

A public hearing to receive comments regarding these proposed amendments will be held during the meeting of the Electrical Examining Board at 10 a.m. on April 19, 2012, in the First Floor Public Conference Room, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa.

The amendments proposed herein are subject to the waiver provisions in rule 661—501.5(17A) which apply generally to rules of the Electrical Examining Board.

Any fiscal impact of these proposed amendments is anticipated to be less than \$100,000 annually.

After analysis and review of this rule making, there should be a positive impact on jobs. This rule making lessens the burden for electricians to enter into Iowa’s market, simplifying the examination process. Further, this rule making should allow Iowans to obtain business in other markets. The Board will continue to work with stakeholders to maximize this rule making’s positive impact on jobs.

These amendments are intended to implement Iowa Code chapter 103.

The following amendments are proposed.

ITEM 1. Amend subrule 502.2(14) as follows:

502.2(14) Reciprocal licensing. A journeyman class A license may be issued, without examination, to a person who holds a license from another state provided that:

a. the The board has entered into an agreement with the other state providing for reciprocal issuance of licenses and that the agreement recognizes the equivalency of the examination required for the license issued by the other state and the examination required for the Iowa license to be issued. ~~The person applying for an Iowa license based on this subrule shall provide a copy of the license from the other state, a completed application for an Iowa license, and the applicable license fee. The board may require additional evidence that the person’s license is current; and~~

PUBLIC SAFETY DEPARTMENT[661](cont'd)

b. The applicant has successfully completed a supervised written examination approved by the other state with a score of 75 or higher in order to obtain the license from the other state; and

c. The applicant holds an applicable license from the other state at the time the application for an Iowa license is filed and has held the applicable license from the other state continuously for one year at the time the application for an Iowa license is filed; and

d. The applicant has submitted:

(1) A completed application for the Iowa license;

(2) A copy of the applicable license from the other state, clearly showing the license number and any other identifying information;

(3) The applicable fee;

(4) The sworn affidavit required under subparagraph 502.2(14)“e”(2), if applicable; and

(5) Any other information required by the board; and

e. The applicant has either:

(1) Completed an approved apprenticeship program; or

(2) Completed 16,000 hours of electrical work while licensed by the other state, as documented by submission of a sworn affidavit signed by the applicant.

ITEM 2. Adopt the following **new** subrule 502.4(6):

502.4(6) The applicant has unpaid fees due to the board which are 120 days or more past due. The license for which the applicant applied may be issued after the fees are paid if the applicant is not otherwise disqualified from obtaining the license.

ITEM 3. Adopt the following **new** subrule 552.2(4):

552.2(4) Modification of permits and failure to pay inspection fees. Inspection fees will normally be paid at the time a permit is obtained. However, additional fees may apply if a permit is modified by an inspector, based upon inspection of the electrical installation. The person who obtained the original permit shall be notified immediately by the inspector of the modification and of the amount of any additional fees which are due. Any additional fees shall be due at the time the person responsible for payment receives notification of modification of the permit.

a. If an additional fee or portion of the fee is more than 60 days past due, the staff of the board shall notify the person responsible for payment of the fee of the necessity of promptly making the payment.

b. If an additional fee or portion of the fee is more than 120 days past due, the secretary of the board may suspend the ability of the person responsible for the payment to obtain inspection permits. The secretary shall restore the person's ability to obtain permits when payment of the past due amount has been received. Suspension of a person's ability to obtain permits may be appealed to the board as provided in rule 661—503.4(103).

c. If payment of a fee or portion of a fee is more than 180 days past due, the board may refer the debt for collection to the department of revenue pursuant to Iowa Code chapter 272D.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

March 1, 2011 — March 31, 2011	5.50%
April 1, 2011 — April 30, 2011	5.50%
May 1, 2011 — May 31, 2011	5.50%
June 1, 2011 — June 30, 2011	5.50%
July 1, 2011 — July 31, 2011	5.25%
August 1, 2011 — August 31, 2011	5.00%
September 1, 2011 — September 30, 2011	5.00%

USURY(cont'd)

October 1, 2011 — October 31, 2011	4.25%
November 1, 2011 — November 30, 2011	4.00%
December 1, 2011 — December 31, 2011	4.25%
January 1, 2012 — January 31, 2012	4.00%
February 1, 2012 — February 29, 2012	4.00%
March 1, 2012 — March 31, 2012	4.00%

ARC 0026C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 1, "General," Chapter 3, "Declaratory Orders," Chapter 5, "Public Records and Fair Information Practices," Chapter 10, "Child Support Noncompliance," Chapter 11, "Complaints, Investigations, Contested Case Hearings," Chapter 13, "Issuance of Teacher Licenses and Endorsements," Chapter 15, "Special Education Support Personnel Authorizations," Chapter 17, "Career and Technical Endorsements and Licenses," Chapter 20, "Renewals," and Chapter 25, "Code of Professional Conduct and Ethics," Iowa Administrative Code.

These amendments clean up language, Iowa Code citations and administrative rule citations in the administrative rules of the Board of Educational Examiners. During the 2002 legislative session, changes were made to the numbering and language of the Iowa Rules of Civil Procedure (Iowa R.C.P.). The references to the Iowa R.C.P. in the Board's current rules do not reflect the changes and have been amended to reference the correct Iowa R.C.P. section. In 2002, Iowa Code section 272.6 was repealed; the Board's rules still reference this section. The information on fraudulent applications is referenced in Iowa Code 272.2, subsection 14, paragraph "b," subparagraph (3), and the Board's rules therefore have been amended to reference this Iowa Code section. During the 2009 legislative session, 2009 Iowa Acts, Senate File 340, repealed Iowa Code section 692A.13 and created Iowa Code section 692A.121. The Board's rules reference the repealed Iowa Code section and therefore have been amended to reference the new Iowa Code section. In 2008, the Board renumbered several chapters of its rules and changed the references to these renumbered chapters in its rules as necessary; several old references remain in the rules that need to reference the 2008 changes. The Board has made necessary changes to references to the Iowa Code as the Iowa legislature has amended Iowa Code sections affecting the Board. The changes to the Board's rules have referenced the location of the amended Iowa Code in the Iowa Acts or the Supplement to the Iowa Code. These amendments are now codified in the Iowa Code, and the Board's rules should cite the correct Iowa Code reference. Additional cleanup of the Board's rules corrects citations to the Iowa Code and revises unclear and confusing language.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 14, 2011, as **ARC 9924B**. A public hearing on the amendments was held on Wednesday, January 4, 2012. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 272.

These amendments will become effective April 11, 2012.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 1, 3, 5, 10, 11, 13, 15, 17, 20, 25] is being omitted. These amendments are identical to those published under Notice as **ARC 9924B**, IAB 12/14/11.

[Filed 2/3/12, effective 4/11/12]

[Published 3/7/12]

[For replacement pages for IAC, see IAC Supplement 3/7/12.]

ARC 0025C**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 11, "Complaints, Investigations, Contested Case Hearings," and Chapter 25, "Code of Professional Conduct and Ethics," Iowa Administrative Code.

The adopted amendments update the rules pertaining to disqualifying criminal convictions to reflect 2011 Iowa Acts, Senate File 120.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 14, 2011, as **ARC 9923B**. A public hearing on the amendments was held on Wednesday, January 4, 2012. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2011 Iowa Code Supplement section 272.2(14)"b"(1).

These amendments will become effective April 11, 2012.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [11.35(2), 25.3(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 9923B**, IAB 12/14/11.

[Filed 2/3/12, effective 4/11/12]

[Published 3/7/12]

[For replacement pages for IAC, see IAC Supplement 3/7/12.]

ARC 0029C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

These amendments increase the Medicaid dispensing fee for prescribed drugs by an additional amount based on additional appropriations made in 2011 Iowa Acts, House File 649. For state fiscal year 2012, the total dispensing fee will be \$6.20, the usual fee of \$4.34 plus an add-on of \$1.86 to reflect the additional appropriation.

These amendments were Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin on September 7, 2011, as **ARC 9708B**. Notice of Intended Action to solicit comments on these amendments was published as **ARC 9709B** on the same date. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

The Council on Human Services adopted these amendments on February 8, 2012.

These amendments do not provide for waivers in specified situations because the change is a benefit to the providers affected. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4 and 2011 Iowa Acts, House File 649, section 28, subsection 1(b).

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments shall become effective on April 11, 2012, at which time the Adopted and Filed Emergency amendments are rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule **79.1(2)**, provider category "Prescribed drugs," as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Prescribed drugs	See 79.1(8)	\$4.34 <u>\$6.20</u> dispensing fee effective 8/1/11. (See 79.1(8) "a," "b," and "e.")

ITEM 2. Amend paragraph **79.1(8)"g"** as follows:

g. For services rendered on or after ~~July 1, 2010~~ August 1, 2011, the professional dispensing fee is ~~\$4.34~~ \$6.20 or the pharmacy's usual and customary fee, whichever is lower.

[Filed 2/8/12, effective 4/11/12]

[Published 3/7/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/7/12.

ARC 0028C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 85, "Services in Psychiatric Institutions," Iowa Administrative Code.

These amendments restore the 5 percent reduction in the maximum Medicaid reimbursement rate for care in a non-state-owned psychiatric medical institution for children (PMIC) that was implemented in December 2009 as a result of Executive Order 19.

These amendments were Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin on September 7, 2011, as **ARC 9710B**. Notice of Intended Action to solicit comment on these amendments was published as **ARC 9711B** on the same date. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

The Council on Human Services adopted these amendments on February 8, 2012.

These amendments do not provide for waivers in specified situations because higher reimbursement is a benefit to the facilities. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4 and 2011 Iowa Acts, House File 649, section 28, subsection 1(i)(2).

These amendments shall become effective April 11, 2012, at which time the Adopted and Filed Emergency amendments are rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule **79.1(2)**, provider category "Psychiatric medical institutions for children," as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Psychiatric medical institutions for children		
1. Inpatient	Retrospective cost-related	<u>Effective 8/1/11:</u> Actual and allowable cost not to exceed a maximum for non-state-owned providers of 103% of patient-day-weighted average costs of non-state-owned providers located within Iowa less 5%.
2. Outpatient day treatment	Fee schedule	<u>Effective 8/1/11:</u> Fee schedule in effect 11/30/09 less 5%.

ITEM 2. Amend paragraph **85.25(1)“c”** as follows:

c. For services rendered ~~July 1, 2010, through June 30, on or after August 1, 2011~~, rates paid shall be adjusted to 100 percent of the facility's actual and allowable average costs per patient day, based on the cost information submitted pursuant to paragraphs 85.25(1) “a” and “b,” subject to the upper limit provided in 441—subrule 79.1(2) for non-state-owned facilities. Before rate adjustment, providers shall be paid a prospective interim rate equal to the previous year's retrospectively calculated unit-of-service rate.

[Filed 2/8/12, effective 4/11/12]

[Published 3/7/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/7/12.

ARC 0030C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services amends Chapter 109, “Child Care Centers,” Iowa Administrative Code.

This amendment conforms child care center licensing standards to legislation enacted in 2011 Iowa Acts, House File 649, section 92. The amendment changes an exemption to licensing to clarify that parents may be employed by a fitness center or nonprofit organization to teach or lead a social or recreational activity instead of merely participating in it. The parent still must be immediately available and accessible on the physical premises where the care is provided.

Notice of Intended Action for this amendment and other proposed amendments was published in the Iowa Administrative Bulletin on December 14, 2011, as **ARC 9898B**. Although all three of the comments the Department received supported the amendments in the Notice of Intended Action, the Department has not adopted the amendments proposed in Items 2, 3, and 4 of the Notice, at the request of the Legislature's Administrative Rules Review Committee. Those items proposed adding language to:

- Require specific levels of physical activity for children who are in care for four hours or more each day, and
- Limit time children may spend viewing television, DVDs, and videos and using computers.

The Department may consider rule making on these issues at a later date. A complete summary of the comments and the Department's responses is available on the Department's Web site at: <http://www.dhs.iowa.gov/policyanalysis/RulesPages/phcomm.htm>.

The Council on Human Services adopted this amendment on February 8, 2012.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment does not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code chapter 237A as amended by 2011 Iowa Acts, House File 649, section 92.

This amendment will become effective May 1, 2012.

The following amendment is adopted.

Amend rule **441—109.1(237A)**, definition of “Child care,” numbered paragraph “14,” as follows:

14. A program offered to a child whose parent, guardian, or custodian is engaged solely in a recreational or social activity, remains immediately available and accessible on the physical premises on which the child's care is provided, and does not engage in employment while the care is provided. However, if the recreational or social activity is provided in a fitness center or on the premises of a nonprofit organization, the parent, guardian, or custodian of the child may be employed to teach or lead the activity.

[Filed 2/8/12, effective 5/1/12]

[Published 3/7/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/7/12.

ARC 0035C

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 507B.12, the Insurance Division hereby adopts amendments to Chapter 15, “Unfair Trade Practices,” Iowa Administrative Code.

Chapter 15 establishes certain minimum standards and guidelines of conduct by identifying unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as prohibited by Iowa Code chapter 507B.

The adopted amendments to Chapter 15 are promulgated to conform to the Annuity Disclosure Model Regulation adopted by the National Association of Insurance Commissioners. The amendments will go into effect April 11, 2012, and persons and entities shall comply with the amended rules for all annuities not exempted under rule 191—15.62(507B) in accordance with the dates set forth in the rules.

These amendments were published under Notice of Intended Action in the December 28, 2011, Iowa Administrative Bulletin as **ARC 9941B**.

A public hearing was held on January 18, 2012, at the offices of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa. Interested persons could have made written suggestions or comments on the proposed amendments on or before January 18, 2012.

One comment letter was received in which a request was made to extend the date on which the rules would apply to all annuities not otherwise exempted to January 1, 2013, as opposed to July 1, 2012, as previously stated in the proposed amendment to the introductory paragraph of rule 191—15.62(507B). The Division has made that change. The introductory paragraph now reads as follows:

“191—15.62(507B) Applicability and scope. These rules apply to all annuities not exempted under this rule 191—15.62(507B) for which applications are taken on or after January 1, 2013, except that rule 191—15.66(507B) applies to all annuities not exempted under this rule 191—15.62(507B) which are in effect or for which applications are taken on or after January 1, 2013, and except that rule 191—15.67(507B) applies to all annuity contracts not exempted under this rule 191—15.62(507B) which are in effect on or after January 1, 2013. These rules apply to all group and individual annuity contracts and certificates except:”

In addition, the Division determined that the date after which compliance with rule 191—15.64(507B) for certain transactions is required should be January 1, 2015, instead of January 1, 2014, as previously

INSURANCE DIVISION[191](cont'd)

stated in the introductory paragraph of proposed subrule 15.62(6). The introductory paragraph, which has been revised to reflect the January 1, 2015, date, now reads as follows:

“15.62(6) Transactions involving variable annuities and other registered products in compliance with Securities and Exchange Commission (SEC) rules and Financial Industry Regulatory Authority (FINRA) rules relating to disclosures and illustrations, provided that compliance with rule 191—15.64(507B) shall be required after January 1, 2015, unless, or until such time as, the SEC has adopted a summary prospectus rule or FINRA has approved for use a simplified disclosure form applicable to variable annuities or other registered products.”

Finally, a technical change was made in Item 6 to renumber rules in Division V to create space for new rules in Division IV. Item 6 now reads as follows:

“Item 6. Renumber rules **191—15.66(507B)** and **191—15.67(507B)** as **191—15.67(507B)** and **191—15.69(507B)** and rules **191—15.68(507B)** to **191—15.74(507B)** as **191—15.72(507B)** to **191—15.78(507B)**.”

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 507B.

These amendments will become effective April 11, 2012.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [15.61 to 15.78] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 9941B**, IAB 12/28/11.

[Filed 2/16/12, effective 4/11/12]

[Published 3/7/12]

[For replacement pages for IAC, see IAC Supplement 3/7/12.]

ARC 0032C**PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Hearing Aid Dispensers hereby amends Chapter 124, “Discipline for Hearing Aid Dispensers,” Iowa Administrative Code.

Because 2011 Iowa Acts, House File 649, section 87, repealed Iowa Code section 154A.24(3)(s), the amendment in Item 1 rescinds the same language in paragraph 124.2(6)“d,” which requires advertisements related to hearing aids to include qualifying words in the same size type as the title of the business if the title of the business does not include the words “hearing aid.” The amendment in Item 2 clarifies that conviction of a crime includes when the judgment of conviction or sentence was deferred.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 5, 2011, as **ARC 9800B**. A public hearing was held on November 1, 2011, from 10:30 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, Des Moines, Iowa. One comment was received at the public hearing. Mr. Joe Kelly, representing the Iowa Hearing Association, thanked the Board for rescinding the requirement that the qualifying words be added to advertisements if the title of the business does not include the words “hearing aid.” These amendments are identical to those published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 21, 147, 154A and 272C.

These amendments will become effective April 11, 2012.

The following amendments are adopted.

ITEM 1. Amend subrule 124.2(6) as follows:

124.2(6) Failure to place all of the following in an advertisement relating to hearing aids:

- a. Hearing aid dispenser’s name.
- b. Hearing aid dispenser’s office address.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- c. Hearing aid dispenser's telephone number.
- d. ~~The qualifying words in the same size type as the title of the business: "for the purpose of fitting, selection, adaption, and sale of hearing aids." However, the qualifying words are not required if the advertisement includes the words "hearing test," "hearing evaluation," "free hearing test," "free hearing evaluation," "hearing measurement," or "free hearing measurement," and the title of the business which is advertising appears in the advertisement and includes the words "hearing aid."~~

ITEM 2. Amend subrule 124.2(16) as follows:

124.2(16) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice as a hearing aid dispenser within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

[Filed 2/16/12, effective 4/11/12]

[Published 3/7/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/7/12.

ARC 0037C

REGENTS BOARD[681]

Adopted and Filed

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby amends Chapter 1, "Admission Rules Common to the Three Universities," and Chapter 9, "Policies and Procedures," Iowa Administrative Code.

The amendment in Item 1 adds an application fee for nondegree students enrolling at Iowa State University and is unchanged from the noticed amendment. The new fee is necessary to cover the administrative costs associated with processing applications. Item 2 rescinds rule 681—9.5(262) relating to telecommunications policies and adopts a new rule in lieu thereof.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 30, 2011, as **ARC 9869B**. A comment period was established. No comments were received. The amendment in Item 1 is identical to the proposed amendment. After further review, the Board of Regents did not adopt the amendments relating to Chapter 2, "Supplemental Specific Rules for Each Institution," proposed in Items 2 through 15 of **ARC 9869B**. The amendments may be proposed in a new rule making at a later date. After receiving comments from members of the Administrative Rules Review Committee and upon further review, the Board of Regents did not adopt the amendments proposed in Items 16 through 18 of **ARC 9869B** but instead rescinded existing rule 681—9.5(262) and adopted a new rule 681—9.5(262) on the same topic. The existing rule contained duplicative or similar language for each of the universities. The new rule has eliminated duplicative language and the need for separate subrules for each university.

The Board of Regents adopted the amendments on February 7, 2012.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 262.9(3) and 262.9(19).

These amendments shall become effective on April 11, 2012.

The following amendments are adopted.

ITEM 1. Amend rule **681—1.7(262)**, fees applicable to Iowa State University, as follows:

REGENTS BOARD[681](cont'd)

Iowa State University

Undergraduate domestic student	\$40
Undergraduate international student	\$50
Graduate domestic student	\$40
Graduate international student	\$90
Veterinary Medicine	\$75
<u>Nondegree student</u>	<u>\$40</u>

ITEM 2. Rescind rule 681—9.5(262) and adopt the following new rule in lieu thereof:

681—9.5(262) Telecommunications policies and procedures.

9.5(1) *General or administrative.* The institutions governed by the regents view the statewide telecommunications network as one way to expand the ability of the universities to provide instruction and other information affecting professional and economic development throughout Iowa. The regents institutions utilize the Iowa communications network when appropriate for activities that include credit and noncredit courses, outreach programming, administrative meetings, professional development seminars and teleconferences.

9.5(2) *Designated coordinating agency.* As a means of facilitating efficient and effective utilization of the statewide telecommunications network by university faculty and staff, the universities have appointed Information Technology Services (ITS) as the principal agency on each campus responsible for arranging access to the system. ITS will assume an advisory role to interested users as well as represent a campus information source on statewide telecommunications issues. Additional responsibilities for ITS relating to the statewide telecommunications network include establishing a liaison with the network's management, coordinating campus financial transactions, and engaging campus entities to support the technical components required for collaborative efforts among the institutions governed by the board of regents.

9.5(3) *Credit, noncredit course offerings.* The regents institutions will facilitate use of the statewide telecommunications network wherever appropriate and cost-effective. The universities support a wide range of offerings, including credit and noncredit courses, professional development seminars, conferences and workshops. The originating college and department will retain exclusive jurisdiction over decisions pertaining to the instructional development process, including the choice of subject matter content, faculty, credit, student/participant requirements, and course or conference revision or withdrawal.

9.5(4) *Statewide coordination.* The regents institutions encourage collaborative efforts among the institutions governed by the board of regents involving the statewide telecommunications network.

[Filed 2/17/12, effective 4/11/12]

[Published 3/7/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/7/12.

ARC 0036C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 421.17, the Department of Revenue hereby adopts an amendment to Chapter 3, "Voluntary Disclosure Program," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXXIV, No. 13, p. 912, on December 28, 2011, as **ARC 9949B**.

REVENUE DEPARTMENT[701](cont'd)

The amendment to rule 701—3.1(421,422,423) broadens the scope of the Department's voluntary disclosure program to include all unregistered business entities and persons, not just those located outside Iowa. The purpose of the voluntary disclosure program is to encourage unregistered business entities and persons to voluntarily contact the Department regarding unreported Iowa source income.

This amendment is identical to that published under Notice of Intended Action.

After analysis and review of this rule making, the Department has determined that because this rule making will help businesses remain operational, it may have a positive impact on jobs and job growth.

This amendment is intended to implement Iowa Code chapters 421, 422 and 423.

This amendment will become effective April 11, 2012, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [3.1] is being omitted. This amendment is identical to that published under Notice as **ARC 9949B**, IAB 12/28/11.

[Filed 2/17/12, effective 4/11/12]

[Published 3/7/12]

[For replacement pages for IAC, see IAC Supplement 3/7/12.]

ARC 0033C

TRANSPORTATION DEPARTMENT[761]**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on February 16, 2012, adopted an amendment to Chapter 164, "Traffic Safety Improvement Program," Iowa Administrative Code.

This amendment changes the application submittal deadline from June 15 to August 15 to allow applicants additional time to prepare applications and to shorten application approval times.

Notice of Intended Action for this amendment was published in the January 11, 2012, Iowa Administrative Bulletin as **ARC 9968B**. This amendment is identical to that published under Notice.

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 312.2.

This amendment will become effective April 11, 2012.

Rule-making action:

Amend paragraph **164.9(1)“b”** as follows:

b. All complete applications received before ~~June~~ August 15 of each year shall be evaluated for funding.

[Filed 2/16/12, effective 4/11/12]

[Published 3/7/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/7/12.

ARC 0034C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on February 16, 2012, adopted amendments to Chapter 520, "Regulations Applicable to Carriers," Iowa Administrative Code.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 Code of Federal Regulations (CFR), Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR. Each year a revised edition of 49 CFR is published, incorporating all of the final regulations adopted during the year.

To ensure the consistency required by statute, the Department annually adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The amendments to the FMCSR and the HMR that have become final and effective since the 2010 edition of the CFR are listed below. The parts affected are followed by FR citations.

Amendments to the FMCSR and Federal HMR

Parts 390, 391, and 392 (FR Vol. 75, No. 186, Pages 59118-59136), 09-27-10

The Federal Motor Carrier Safety Administration (FMCSA) amended the Federal Motor Carrier Safety Regulations by prohibiting texting on electronic devices by commercial motor vehicle (CMV) drivers and imposed sanctions, including civil penalties and disqualification from operating CMVs. Additionally, motor carriers are prohibited from requiring or allowing their drivers to engage in texting while driving. FMCSA also amended its commercial driver's license (CDL) regulations to add to the list of disqualifying offenses a conviction under state or local traffic laws or ordinances that prohibit texting by CDL drivers while operating a CMV, including school bus drivers. Effective Date: October 27, 2010.

Part 393 (FR Vol. 75, No. 212, Pages 67634-67635), 11-03-10

The Federal Motor Carrier Safety Administration (FMCSA) confirmed the effective date of the direct final rule titled "Parts and Accessories Necessary for Safe Operation: Antilock Brake Systems," published on September 21, 2010, in the Federal Register (75 FR 57393). This rule made permanent the existing requirement in the Federal Motor Carrier Safety Regulations that each trailer with an antilock brake system be equipped with an external malfunction indicator lamp. Effective Date: November 22, 2010.

Parts 171, 172, 173, 178, and 180 (FR Vol. 76, No. 12, Pages 3307-3389), 01-19-11

The Pipeline and Hazardous Materials Safety Administration (PHMSA) amended the Hazardous Materials Regulations to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport limited quantities, and vessel stowage requirements.

TRANSPORTATION DEPARTMENT[761](cont'd)

These revisions were necessary to harmonize the Hazardous Materials Regulations with changes made to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the United Nations Recommendations on the Transport of Dangerous Goods—Model Regulations. Effective Date: January 19, 2011.

Parts 171 and 173 (FR Vol. 76, No. 21, Pages 5483-5494), 02-01-11

The Pipeline and Hazardous Materials Safety Administration (PHMSA) amended the Hazardous Materials Regulations by incorporating provisions contained in certain widely used or longstanding cargo tank special permits that have established safety records. Special permits allow a company or individual to package or ship a hazardous material in a manner that varies from the regulations, provided an equivalent level of safety is maintained. Effective Date: March 3, 2011.

Part 177 (FR Vol. 76, No. 39, Pages 10771-10778), 02-28-11

The Pipeline and Hazardous Materials Safety Administration (PHMSA) amended the Hazardous Materials Regulations by prohibiting texting on electronic devices by drivers during the operation of a motor vehicle containing a quantity of hazardous materials requiring placards or any quantity of a select agent or toxin listed in the Department of Health and Human Services' "Select Agents and Toxins" regulations. Additionally, in accordance with requirements adopted on September 27, 2010, by the Federal Motor Carrier Safety Administration (FMCSA), motor carriers are prohibited from requiring or allowing drivers of covered motor vehicles to engage in texting while driving. Effective Date: March 30, 2011.

Part 395 (FR Vol. 76, No. 87, Pages 25588-25590), 05-05-11

The Federal Motor Carrier Safety Administration (FMCSA) amended the Federal Motor Carrier Safety Regulations to adopt regulatory language regarding hours of service (HOS) consistent with the statutory exemption authorized for certain railroad signal employees operating commercial motor vehicles (CMVs) in connection with railroad signal work. This action is in accordance with the Rail Safety Improvement Act of 2008 (RSIA of 2008), which took effect July 16, 2009. Effective Date: May 5, 2011.

Part 390 (FR Vol. 76, No. 98, Pages 29169-29170), 05-20-11

The Federal Motor Carrier Safety Administration (FMCSA) amended the Federal Motor Carrier Safety Regulations to extend until June 30, 2012, the compliance date of the requirement for drivers and motor carriers to prepare a driver-vehicle inspection report (DVIR) on an item of intermodal equipment (IME) when no damage, defects, or deficiencies are discovered by, or reported to, the driver. The previous compliance date was June 30, 2011. As a result of this action, drivers and carriers are not required to prepare no-defect DVIRs until June 30, 2012. This action is being taken to provide the FMCSA with sufficient time to address, through a notice-and-comment rule-making proceeding, a petition to rescind the requirement for no-defect DVIRs on intermodal equipment. Effective Date: May 20, 2011.

Parts 171 and 177 (FR Vol. 76, No. 109, Pages 32867-32873), 06-07-11

The Pipeline and Hazardous Materials Safety Administration (PHMSA) in coordination with the Federal Motor Carrier Safety Administration (FMCSA) approved the use of the National Fire Protection Association Standard (NFPA) 498—Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives (2010 Edition) for the construction and maintenance of safe havens used for unattended storage of Division 1.1, 1.2, and 1.3 explosives. Effective Date: July 7, 2011.

Part 172 (FR Vol. 76, No. 123, Pages 37283-37285), 06-27-11

The Pipeline and Hazardous Materials Safety Administration (PHMSA) amended the Hazardous Materials Regulations by removing saccharin and its salts from the list of hazardous substances and reportable quantities. The U.S. Environmental Protection Agency (EPA) recently removed saccharin

TRANSPORTATION DEPARTMENT[761](cont'd)

and its salts from its list of hazardous substances through notice-and-comment rule making, and this final rule harmonizes the lists to better enable shippers and carriers to identify the affected hazardous substances and comply with all applicable regulatory requirements. Effective Date: June 27, 2011.

Parts 107, 171, 172, 173, 177, 178, and 180 (FR Vol. 76, No. 139, Pages 43510-43532), 07-20-11

The Pipeline and Hazardous Materials Safety Administration (PHMSA) amended the Hazardous Materials Regulations to update and clarify certain regulatory requirements. These amendments are intended to promote safer transportation practices, eliminate unnecessary regulatory requirements, finalize outstanding petitions for rule making, facilitate international commerce, and simplify the regulations. Effective Date: August 19, 2011.

Part 393 (FR Vol. 76, No. 177, Pages 56318-56322), 09-13-11

The Federal Motor Carrier Safety Administration (FMCSA) amended the Federal Motor Carrier Safety Regulations to eliminate the requirement for operational brakes on the last saddle-mounted truck or tractor in a triple saddle-mount combination, except when a full mount is present. This action is in response to a petition for rule making from the Automobile Carriers Conference (ACC) of the American Trucking Associations (ATA), which stated that this requirement degrades the braking performance of these combinations because the lightly loaded axle of the last vehicle tends to lock up under heavy braking. Effective Date: October 13, 2011.

Notice of Intended Action for these amendments was published in the January 11, 2012, Iowa Administrative Bulletin as **ARC 9973B**. These amendments are identical to those published under Notice.

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 321.

These amendments will become effective April 11, 2012.

Rule-making actions:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. *Motor carrier safety regulations.* The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2010~~ 2011).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. *Hazardous materials regulations.* The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2010~~ 2011).

[Filed 2/16/12, effective 4/11/12]

[Published 3/7/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/7/12.

ARC 0031C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12 and 2011 Iowa Code Supplement sections 321.188 and 321.207, the Iowa Department of Transportation, on February 15, 2012, adopted amendments to Chapter 607, “Commercial Driver Licensing,” Iowa Administrative Code.

These amendments implement changes to the Federal Motor Carrier Safety Regulations that, effective January 30, 2012, require all applicants for a commercial driver's license (CDL), whether the CDL is initial, transferred, renewed or upgraded, to self-certify to the type of driving they engage

TRANSPORTATION DEPARTMENT[761](cont'd)

in and to give the Department a copy of the driver's current medical examiner's certificate if the driver has certified to non-excepted interstate driving. Current CDL holders are required to complete a self-certification, and to submit a current medical examiner's certificate if certifying to non-excepted interstate driving, before January 30, 2014. The Department will post to the Commercial Driver's License Information System a medical status of "certified" for all persons who certify to non-excepted interstate driving and provide a medical examiner's certificate. Current CDL holders who fail to self-certify or provide a current medical examiner's certificate before January 30, 2014, and drivers certifying to non-excepted interstate driving who do not maintain their certified status by giving the Department a copy of each subsequently issued medical examiner's certificate or any associated medical variance before the previous certificate or variance expires will be subject to an immediate posting of their Commercial Driver's License Information System medical status as "not certified" and to a downgrade of their CDLs. The downgrade becomes effective 60 days after the expiration of the medical examiner's certificate or variance. A driver whose CDL privilege is removed may regain the privilege at any time by taking the action required to avoid the CDL downgrade, provided that the driver remains otherwise eligible for a CDL.

New definitions of "commercial driver's license," "commercial driver's license downgrade," "commercial driver's license information system driver's record," "medical examiner," "medical examiner's certificate," "medical variance," and "self-certification" are adopted in rule 761—607.3(321). These definitions are consistent with and not different from established federal definitions of these terms and are included in this chapter only for the purpose of reference and clarity in their use in the new "CDL downgrade" rule established in Item 4.

These amendments also update the citation in 49 Code of Federal Regulations (CFR) Part 383. The amendments to 49 CFR Part 383 that have become effective since the 2008 edition of the CFR are listed in the information below. The parts affected are followed by Federal Register (FR) citations.

Parts 383, 384, 390 and 391 (FR Vol. 73, No. 231, Page 73096, 12-1-08)

The Federal Motor Carrier Safety Administration amends the Federal Motor Carrier Safety Regulations to require interstate CDL holders subject to the physical qualification requirements to provide a current original or copy of their medical examiner's certificates to their state driver licensing agency. State driver licensing agencies are required to record on the Commercial Driver's License Information System driver's record the self-certification the driver made regarding the applicability of the federal driver qualification rules and, for drivers subject to those requirements, the medical certification status information specified in this final rule.

Parts 383, 384, 390, 391 and 392 (FR Vol. 75, No. 186, Page 59118, 9-27-10)

The Federal Motor Carrier Safety Administration prohibits texting by commercial motor vehicle drivers while they are operating in interstate commerce and imposes sanctions, including civil penalties and disqualification from operating commercial motor vehicles in interstate commerce, for drivers who fail to comply. Additionally, motor carriers are prohibited from requiring or allowing their drivers to engage in texting while driving.

Parts 383, 384 and 385 (FR Vol. 76, No. 89, Page 26854, 5-9-11)

The Federal Motor Carrier Safety Administration amends the CDL knowledge and skills testing standards and establishes new minimum federal standards for states to issue the commercial learner's permit. The final rule requires that a commercial learner's permit holder meet virtually the same requirements as a CDL holder.

The Department shall not grant any waivers under the provisions of these amendments since the amendments are needed to comply with 49 U.S.C. Section 31311.

Notice of Intended Action for these amendments was published in the January 11, 2012, Iowa Administrative Bulletin as **ARC 9955B**. These amendments were also Adopted and Filed Emergency, effective January 30, 2012, and were published in the January 11, 2012, Iowa Administrative Bulletin as **ARC 9954B**. The references to 2011 Iowa Acts, Senate File 205, were updated to reference the 2011

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Iowa Code Supplement in Items 2, 3 and 4. Otherwise, the amendments are identical to those published under Notice of Intended Action and those Adopted and Filed Emergency.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 321.

These amendments will become effective April 11, 2012, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [607.3, 607.10, 607.50] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 9955B** and Adopted and Filed Emergency as **ARC 9954B**, IAB 1/11/12.

[Filed 2/15/12, effective 4/11/12]

[Published 3/7/12]

[For replacement pages for IAC, see IAC Supplement 3/7/12.]

ARC 0027C

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4 and 476.2, the Utilities Board (Board) gives notice that on February 6, 2012, the Board issued an order in Docket No. RMU-2011-0006, In re: Rescission of 199 IAC Chapter 43, Iowa Broadband Initiative, "Order Adopting Amendment." The order adopted an amendment which was published under Notice of Intended Action in IAB Vol. XXXIV, No. 10 (11/16/2011), p. 706, as **ARC 9843B**.

The amendment rescinds the Board's rules at 199 IAC 43 because the statutory provisions creating the Iowa Broadband Initiative and authorizing the Board to adopt rules implementing those provisions were eliminated by subsequent legislative action.

The order adopting the amendment is available on the Board's Web site at www.state.ia.us/iub.

After analysis and review of this rule making, no adverse impact on jobs has been found.

This amendment is intended to implement Iowa Code sections 17A.4 and 476.2 and 2005 Iowa Acts, chapter 9, section 3.

This amendment will become effective on April 11, 2012.

The following amendment is adopted.

Rescind and reserve **199—Chapter 43**.

[Filed 2/6/12, effective 4/11/12]

[Published 3/7/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/7/12.